

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 98-3256

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Stacy Abram, Jr.,

Appellant,

v.

Department of Agriculture, (Sued as  
United States of America),

Appellee.

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Appeal from the United States  
District Court for the  
Eastern District of Arkansas.

[UNPUBLISHED]

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Submitted: September 6, 1999

Filed: September 27, 1999

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Before BEAM, LOKEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

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PER CURIAM.

Following entry of judgment in his civil suit against the Department of Agriculture (USDA), Stacy Abram, Jr. appeals the district court's<sup>1</sup> dismissal of his 42 U.S.C. § 1983 damages claim. We affirm the dismissal of this claim because Mr. Abram may not seek such relief against USDA, a federal agency, under section 1983. See West v. Atkins, 487 U.S. 42, 48 (1988) (§ 1983 plaintiff must show alleged

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<sup>1</sup>The Honorable Stephen M. Reasoner, United States District Judge for the Eastern District of Arkansas.

deprivation of constitutionally protected right was committed by person acting under color of state law); Hindes v. Federal Deposit Ins. Corp., 137 F.3d 148, 158 (3d Cir. 1998) (finding no authority to support conclusion federal agency is “person” subject to § 1983 liability, whether or not in alleged conspiracy with state actors); Davis v. United States, 439 F.2d 1118, 1119 (8th Cir. 1971) (per curiam) (“By its plain language the statute does not authorize redress against the United States.”); cf. Will v. Michigan Dept. of State Police, 491 U.S. 58, 64, 71 (1989) (neither state, nor its officials acting in their official capacities, are “persons” under § 1983). Mr. Abram’s claim, even if construed as one brought under Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), still fails because Bivens also is not a basis upon which to sue a federal agency and Mr. Abram did not name any individuals as defendants. See Federal Deposit Ins. Corp. v. Meyer, 510 U.S. 471, 484-86 (1994) (refusing to extend Bivens to federal agencies and noting individual must be named as defendant under Bivens). Accordingly, the judgment is affirmed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.